

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

MICHAEL HOOPER,)	
)	
Plaintiff,)	
)	
v.)	
)	Case No. 3:04-0358
RONNIE TOUNGETTE, individually,)	Judge Trauger
and in his official capacity as)	Magistrate Judge Griffin
HUMPHREYS COUNTY SHERIFF,)	
)	JURY DEMAND
Defendant.)	

ORDER

For the reasons expressed in the accompanying memorandum, the Motion for Summary Judgment (Docket No. 16) filed by defendant Ronnie Toungette, individually, and in his official capacity as Humphreys County Sheriff, is **GRANTED IN PART** and **DENIED IN PART**.

In particular, defendant's Motion is **GRANTED** with respect to the following claims: (1) plaintiff's due process claims under 42 U.S.C. § 1983 against Sheriff Toungette in his official capacity; and (2) plaintiff's state law claim under Title 38 of the Tennessee Code against Sheriff Toungette in his official capacity. Those claims are **DISMISSED WITH PREJUDICE**.

Defendant's Motion is **DENIED AS MOOT** as to plaintiff's claims under 42 U.S.C. § 1983 against Sheriff Toungette in his individual capacity.

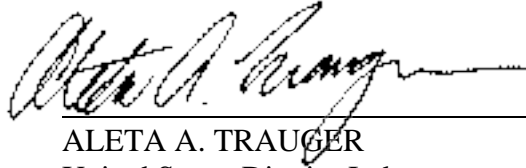
Although plaintiff has not filed a formal motion to this effect, plaintiff apparently desires to voluntarily dismiss his constitutional-based malicious prosecution claim under 42 U.S.C. § 1983 and his state law malicious prosecution claim against Sheriff Toungette in his official capacity. (Pl.'s Resp. to Def.'s Mot. for Summ. J., Docket No. 27 at 6). The Court construes plaintiff's

request as a motion to voluntarily dismiss, which the court hereby **GRANTS**. Accordingly, those claims are hereby **DISMISSED WITH PREJUDICE**. Defendant's Motion with respect to these claims is **DENIED AS MOOT**.

The court declines to exercise supplemental jurisdiction over plaintiff's remaining state law claim. Accordingly, plaintiff's state law claim under Title 38 of the Tennessee Code against Sheriff Toungette in his official capacity is **DISMISSED WITHOUT PREJUDICE**.

It is so ordered.

Enter this 11th day of July 2005.



ALETA A. TRAUGER
United States District Judge